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Forty-sixth session

SUMMARY RECORD OF THE FIRST PART (PUBLIC)* OF THE 1095th MEETING

Held at the Palais des Nations, Geneva,
on Wednesday, 15 March 1995, at 3 p.m.

Chairman: Mr. GARVALOV

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* The summary record of the second part (closed) of the meeting appears as document CERD/C/SR.1095/Add.1.

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GE.95-15730 (E)

The meeting was called to order at 3.10 p.m.

VISIT BY THE SPECIAL RAPPORTEUR OF THE COMMISSION ON HUMAN RIGHTS ON CONTEMPORARY FORMS OF RACISM, RACIAL DISCRIMINATION, XENOPHOBIA AND RELATED INTOLERANCE (A/49/677; E/CN.4/1995/78 and Add.1)

1. The CHAIRMAN welcomed the Special Rapporteur, Mr. Glélé-Ahanhanzo, and said he hoped that his visit would mark the beginning of fruitful cooperation between him and the Committee.

2. Mr. GLELE-AHANHANZO (Special Rapporteur of the Commission on Human Rights on contemporary forms of racism, racial discrimination, xenophobia and related intolerance) thanked the Committee for its invitation. As part of his mandate, he had been requested by the Commission on Human Rights to exchange views with other relevant United Nations mechanisms and treaty bodies in order to enhance their effectiveness and mutual cooperation. He had used information provided by the Committee for his report to the General Assembly in 1994 (A/49/677).

3. In October 1994, he had undertaken a mission to the United States of America, which had just ratified the International Convention on the Elimination of All Forms of Racial Discrimination. His report on that mission was contained in document E/CN.4/1995/78/Add.1 and he had since received further information from the United States Government. He planned to visit Germany, Brazil, the United Kingdom and France in 1995.

4. He would welcome the Committee's suggestions on a number of issues, including working methods and recommendations to the Government of the United States of America, and its advice for his forthcoming missions. He would also welcome any reports or other information which the Committee could provide about the countries he was due to visit in 1995, including information from non-governmental organizations. He looked forward to a fruitful discussion with the Committee.

5. Mr. van BOVEN thanked the Special Rapporteur for coming to exchange views with the Committee. The Committee had been the first treaty monitoring body to be established, 25 years before, and, while it had a special responsibility for its own mandate, it also contributed to the eradication of racial discrimination and the promotion of human rights in general.

6. The Commission on Human Rights had appointed a number of special rapporteurs to deal with issues which were already covered by treaty bodies, including torture and violence against women, as well as racial discrimination. In such a situation, the work of the special rapporteur must complement that of the treaty body in order to avoid duplication. The secretariat had a vital coordinating role to play in that endeavour. One of the major differences between the work of the Committee and that of the Special Rapporteur was that the former could deal only with the States parties to the Convention, whereas the latter could deal with any Member State of the United Nations. It might, accordingly, be useful for the Special Rapporteur to concentrate on States which were not parties to the Convention.

7. Another difference was that the Special Rapporteur concentrated mainly on incidents of racial discrimination, as his reports showed, whereas the Committee also considered the overall situation of racial discrimination in a State party. That consideration was based primarily on the information provided by the State party itself in its periodic report, but the Committee also made use of other information sources, including, of course, reports of incidents of racial discrimination. After the consideration of each report, the Committee drew up concluding observations, for the information of States parties, which formed the basis for a continuing dialogue. In a new procedure, adopted in recent years, the Committee could request urgent information about a situation of particular concern.

8. It was an accepted part of the Special Rapporteur's methods of work to visit countries in person: the Committee did not generally do so, although three members had visited Kosovo on a goodwill mission, in 1993.

9. The Special Rapporteur might also like to consult the Committee's General Recommendations, including General Recommendation XIII on the training of law enforcement officials in the protection of human rights, adopted at the forty-second session in 1993, and the General Recommendation on article 4 of the Convention, also adopted at the forty-second session. Article 4 stated that States parties should prohibit and punish acts of racial violence, incitement to racial hatred and similar offences; in the Committee's opinion, States parties were legally obliged to implement its provisions. Since the Special Rapporteur was mainly concerned with incidents of racial discrimination, it was important that he should be completely familiar with that article's provisions.

10. He was very glad to have an opportunity to share experiences with the Special Rapporteur and he hoped that a similar exchange of views could take place at every session of the Committee.

11. Mr. WOLFRUM welcomed the Special Rapporteur and expressed his willingness to provide all the help and advice in his power. The Committee had considerable experience in the field of racial discrimination, as its voluminous documentation showed, and it had developed a number of efficient methods of work, which the Special Rapporteur might wish to examine even if he did not adopt them himself. As Mr. van Boven had said, the Special Rapporteur and the Committee worked in essentially the same field, although the Special Rapporteur was entitled to visit countries and did not have to confine his attention to States parties to the Convention as the Committee was obliged to do. For that reason, the Special Rapporteur might wish to concentrate on States which had not yet acceded to the Convention and, indeed, try to find out why they had not yet done so.

12. Two areas where the Special Rapporteur might benefit from the Committee's experience were the collection and use of information. Most of the information which came before the Committee was provided by the State party itself in its periodic report. It was a considerable advantage to receive such information firsthand from the Government of the State concerned and often a careful reading of the report revealed internal inconsistencies or unanswered questions which warranted further inquiry. The Committee also made use of information from non-governmental organizations and other private

sources. It had debated at length whether such information was admissible and had finally decided to use it because, as independent experts, members needed to have all possible information at their disposal. However, that information was not always accurate and it was up to members to satisfy themselves of its reliability. When he acted as country rapporteur for a particular State party report, he always took care to ask the State party representative whether such and such a report was true, thus giving the State party the opportunity of disproving it. The Special Rapporteur might wish to adopt a similar approach.

13. The Committee used the information it had gathered in its dialogue with States parties and tried to convince them that action was needed in particular areas. The Committee had no means of enforcing its decisions or recommendations; neither, for that matter, did the Special Rapporteur. The Committee could only hope to influence States parties by the soundness of its research and the cogency of its arguments.

14. So far, the Special Rapporteur had concentrated on European countries and the United States of America. It was true that racism and xenophobia were prevalent in those countries, but he felt that other areas of the world deserved attention, too. The Committee had established its early warning and urgent procedures in order to obtain information about situations which seemed to require urgent preventive action, which was one of the areas closest to the Special Rapporteur's own mandate. The Special Rapporteur might wish to consider a similar procedure, concentrating particularly on States which were not parties to the Convention. One example might be the situation of the Kurdish population of Turkey.

15. The Special Rapporteur's work was likely to gain considerable publicity, from which the Committee was bound to benefit as well. Like Mr. van Boven, he hoped that the Special Rapporteur would be able to meet the Committee for an exchange of views at every session.

16. Mr. ABOUL-NASR said that many lessons had been learned on both sides from the Committee's dialogue with States parties in the 25 years since its inception. Examples had been the Committee's relative success in dispelling the misconception that a State might be immune from discrimination and in convincing some African States, for instance, that discrimination was not always unilateral, i.e. White against Black.

17. With regard to the differences between the respective mandates of the Special Rapporteur and the Committee and areas of possible cooperation, he agreed with other speakers that, since the Special Rapporteur's mandate covered all member States and not just States parties to the Convention, he might perhaps be willing to inquire from States that were not parties why they had not acceded to the Convention and whether they would consider doing so. Another difference was that, whereas the Committee dealt with only one State at a time, the Special Rapporteur had more latitude to deal with global or regional problems or conflicts. His investigations and findings could add substance to the Committee's work. On the question of sources of information, the Committee had moved from using only States parties' periodic reports, which remained the primary source, to the - albeit cautious - use of other sources. Yet another important difference was that the Committee's work was

limited in time to two sessions a year, whereas the Special Rapporteur had more freedom to choose the timing of any action he took. They might usefully complement each other in that regard.

18. The Committee's mandate included its examination of States parties' periodic reports, consideration of complaints by a State party against another, a procedure which was provided for under article 11 of the Convention, but to which no State party had had recourse to date, and consideration of complaints from individuals by virtue of an optional procedure provided for in article 14, which, regrettably, few States had accepted to date. The Committee was also competent, under article 15, to deal with petitions concerning Trust and Non-Self-Governing Territories. In practice, the Committee did not exercise that part of its mandate because of the paucity of the documentation received. Although that might be explained by the fact that few such Territories remained, it was a matter that might warrant further investigation by the Special Rapporteur.

19. An important area in which the Special Rapporteur and the Committee might contribute usefully to each other's work was that of data collection and distribution. He had in mind, for instance, the extensive research and findings of the country rapporteurs when they investigated the situation in a particular State party. Lastly, the Special Rapporteur's activity had been concentrated so far primarily on European or European-minded countries and he would suggest that more attention should be given to third world countries, especially in Africa.

20. Mr. de GOUTTES said that the Special Rapporteur's exchange of views with the Committee, which was in keeping with the wishes of the Commission on Human Rights, was an important step towards improved coordination among United Nations bodies. The Special Rapporteur could benefit from the Committee's long experience in the fight against racism and racial discrimination.

21. He had two questions to add to the comments made by Mr. van Boven, Mr. Wolfrum and Mr. Aboul-Nasr. The first related to priority areas of cooperation, which, to his mind, should focus on preventive action against all forms of racial discrimination. Such preventive action could be developed in four areas. The first was action against the proliferation of organizations advocating racist, extremist and xenophobic views, which were on the rise in many countries. The second was action to combat the resurgence of pseudo-scientific thinking of a racist character. The Special Rapporteur had himself referred to that phenomenon in paragraph 25 of his November 1994 report (A/49/677) in connection with the impact of a racist book by Charles Murray and Richard Herrnstein. The third was preventive action in the form of human rights training for members of the police force and law enforcement officials in general and he drew attention to the Committee's General Recommendation XIII, which dealt with precisely that issue. The fourth area in which preventive action could be taken was in conducting anti-racism campaigns directed towards young people. The United Nations might well launch such a campaign, along the lines of the 1995 Council of Europe campaign. Special attention should be given to new technologies, such as video games and computer networks, which were potential vehicles for propagating racial hatred or intolerance.

22. His second question related to the way in which permanent coordination could be established between the Committee and the Special Rapporteur. As other speakers had indicated, the Committee could alert the Special Rapporteur to serious situations of discrimination which, in the Committee's view and in accordance with its early warning and urgent procedures, warranted urgent action. The Special Rapporteur, in turn, could provide additional information on such situations. The Special Rapporteur might also help to make the Committee's activities more widely known and understood among the general public, with whom he was in closer contact. That applied in particular to the mechanism for individual complaints under article 14 of the Convention.

23. He hoped that the Special Rapporteur would see to it that the Committee was associated with the interdisciplinary seminar on the problems of the theoretical aspects and specific manifestations of contemporary forms of racial discrimination to be held in 1995.

24. Mr. AHMADU said that the Special Rapporteur's work, which he had discharged well to date, was in many ways complementary to that of the Committee. One area in which the Special Rapporteur might usefully contribute to the Committee's work was in visiting countries that were not parties to the Convention. With reference to the African continent, the Special Rapporteur might approach a number of African countries that were parties to the Convention to ask them to consider making the declaration under article 14 and also to inquire why some States parties had consistently failed to submit periodic reports. An example was Swaziland, which had failed in its reporting obligations despite numerous reminders from the Committee. As other speakers had said, the Special Rapporteur might also urge countries that had not acceded to the Convention to consider doing so. He would be particularly interested to know why Benin, which had a very good human rights record, had not become a party to the Convention. Was the Committee considered too intimidating or were its procedures regarded as over-cumbersome? He agreed that, in the course of his visits, the Special Rapporteur might help to bring the Convention to the attention of the public at large.

25. Mr. BANTON, commenting on the statement in paragraph 45 of the 1994 report of the Special Rapporteur (A/49/677) that a number of Governments had affirmed that racism, racial discrimination and xenophobia did not exist in their territory, said that, although it was possible that racial discrimination as those Governments defined it did not exist, the Committee was concerned with racial discrimination as defined in article 1 of the Convention. The Committee had always maintained that there was no country in the world in which racial discrimination as defined therein did not exist at the present time or as a potential threat. Conceptual confusions stemmed from doctrinal interpretations, but there were many common features that might serve as a basis for discrimination, such as gender, age, social class, disability or other comparable characteristics, and some countries preferred not to confront discrimination so conceived. Were studies such as the current series of ILO experimental studies to be conducted in such countries, they would doubtless produce more reliable evidence than the assertions of Government officials.

26. Referring to the section of the report (A/49/677) concerning working methods of the Special Rapporteur (paras. 18 to 38), he said that paragraph 23

indirectly quoted something he himself had written 25 years earlier. It contained passages that he felt could be improved and he offered to write to the Special Rapporteur on that subject.

27. Mr. RECHETOV said that the appointment of the Special Rapporteur and his meeting with the Committee that day were milestones on the path to preventing and eliminating racial discrimination. The Special Rapporteur's mandate was particularly important because, unlike that of the Committee, it was not bound by a legalistic approach based on a single legal instrument, but encompassed the sphere of public relations, which was vital in combating prejudices of all kinds. The Special Rapporteur could be guided not only by international human rights instruments, but also by common sense in clarifying the phenomena that prevented mankind from progressing in that area. Some prejudices were age-old, others had been born of the cold war period. With the changes that had occurred in the former Soviet Union and the countries of eastern Europe, human rights violations had been brought into the open and rightly so. Meanwhile, however, reports of human rights violations in certain countries with long-standing democratic traditions had continued to be denied or treated lightly. The international community had been reluctant to consider such criticisms, which had remained the concern of just a few, often very small, non-governmental organizations. The Special Rapporteur had now shed light on many developments and phenomena throughout the world and made them a subject of concern to the entire international community.

28. Referring again to the Soviet experience, he said that when the Soviet Union had ratified the human rights covenants and conventions 20 years previously, the authorities' attitude had basically been that ratification of those instruments would earn them praise from the international community, but that no action would be taken since Soviet legislation and practice precluded human rights violations. Today, he saw a trend that was equally prejudicial to the international legal order. A growing number of States had acceded to the Convention, but with serious reservations that might jeopardize its fundamental principles and purposes. Expanded membership should not obscure the crucial question of full implementation of the Convention by all States parties.

29. Mr. VALENCIA RODRIGUEZ, said that, because the Special Rapporteur's activities ranged more widely than the Committee's covering both States parties to the Convention and States which were not parties, the Committee had as much to learn as to impart in the present exchange of views.

30. For instance, he would welcome an assessment by the Special Rapporteur of the phenomenon of xenophobia worldwide. Where was it on the rise? How was it manifested? Where was it declining? What were its causes? What measures could the Special Rapporteur recommend for efforts to be made jointly with the Committee to combat that scourge?

31. Mr. SHERIFIS said that the Special Rapporteur was by now fully aware of the Committee's work and of the potential for mutual assistance. It would also be useful for the Special Rapporteur to familiarize himself with the Committee's comments and concluding observations on the periodic reports of any States parties he was to visit.

32. Like other speakers, he noted that the Special Rapporteur's travel plans included mostly European or "European-minded" countries, but his work, advice and role could indeed be very useful in other continents as well. It was to be hoped that he would broaden the scope of his action. His contribution could be especially helpful in non-party States which the Committee could not reach, where his advocacy of accession to the Convention and exploration of the reasons for reticence in that regard would be valuable. Turkey, which had been mentioned by Mr. Wolfrum, was one such country.

33. Mr. SONG Shuhua said that, despite his many years of experience as a member of the Committee, he still had much to learn; perhaps the Special Rapporteur could provide some enlightenment. For example, how was it that, despite the end of the cold war and the expectations born of that event, human rights throughout the world were increasingly under attack? Was there a single identifiable reason?

34. His own impression was that situations varied from region to region and from country to country and that responses differed accordingly. Priorities in dealing with problems, in the area of human rights as elsewhere, might also differ according to circumstances. That raised the question whether generally applicable criteria could be devised in connection with the promotion and protection of those rights.

35. A second point was that it was often easier to perceive another's faults than one's own. All too often, assessments of a country's performance in respect of human rights focused on shortcomings and underestimated achievements. Mutual recognition of difficulties and a better understanding of the problems of others were keys to closer cooperation in solving those problems. In sum, he saw the world as a vast checkerboard, its problems coming in different shapes and sizes and having a different significance according to their location. He would ask the Special Rapporteur whether and how they could all be treated together.

36. Mr. SHAHI commended the Special Rapporteur on his contribution to a better understanding of racism, racial discrimination, xenophobia and related intolerance. With regard to improved contacts and coordination between the Special Rapporteur and the Committee, he was interested in the general recommendations contained in paragraphs 139 et seq. of document A/49/677. and hoped that members of the Committee would be invited to participate in any scientific research on the nature and scope of the problems covered by the Special Rapporteur's mandate.

37. Prevention was better than cure and the Special Rapporteur had rightly placed emphasis on education and teaching in that regard. Paragraph 143 of his report (A/49/677) suggested an excellent, but very ambitious project involving "ways of ridding school textbooks and history books of racial, ethnic or religious prejudice and stereotypes". Would States take part in such an exercise?

38. He hoped that future reports by the Special Rapporteur would keep abreast of racial propaganda and, in particular, the extent to which the media contributed to the spread of prejudices and racial antagonisms. Freedom, especially freedom of expression, was not an unmixed blessing. Its price was

eternal vigilance against abuse and that formed part of the Committee's mandate in combating discrimination and the dissemination of ideas of racial superiority. The Special Rapporteur could perform a useful task by drawing attention to cases where the media did not contribute constructively to peaceful and harmonious racial coexistence.

39. Mrs. SADIQ ALI said that she had been impressed by the findings of the Special Rapporteur. Much had been said about coordination with the Committee and she would merely endorse the request that the Special Rapporteur should broaden his sphere of interest and direct his attention to the Asian region, where there were a large number of countries which had not acceded to the Convention.

40. She also expressed the hope that the members of the Committee might be invited to participate in any seminars or workshops organized in accordance with the Special Rapporteur's recommendations.

41. The CHAIRMAN, speaking as a member of the Committee, drew attention to the significance of the Special Rapporteur's work and the obvious need for joint efforts in promoting and protecting human rights. The Committee was in a unique position in that it could do more than simply look at the situation in various countries, since it could engage in in-depth consideration on the basis of periodic reports by more than 140 States parties to the Convention. The Committee's comments and concluding observations on those relatively up-to-date reports were a valuable source of information, observations and ideas that could be helpful to the Special Rapporteur in his task of defining the causes of contemporary forms of racism, racial discrimination, xenophobia and related intolerance.

42. Those phenomena were obviously in great measure, but by no means exclusively, related to economic circumstances and the Committee had often noted that the absence of economic crisis or underdevelopment was no guarantee of immunity from xenophobia. It had also noted with satisfaction that some countries had adapted their legislation to create a bulwark against racism and racial discrimination, but others had not yet done so. Moreover, accession to the Convention was not necessarily a guarantee of compliance with its provisions. He suggested that the Special Rapporteur might compare the information he obtained with the Committee's findings. Juxtaposition would sharpen the scrutiny and could lead to interesting conclusions.

43. One basic question was why it was so difficult, both nationally and internationally, to combat racism and racial discrimination. An answer might lie in failure to act firmly, and at once, when the first signs of violations of human rights became perceptible. He was thinking in particular of the rights of ethnic communities. There was no need to describe the terrible consequences of that failure or the risks inherent in such hesitation.

44. Mr. GLELE-AHANHANZO (Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance) said that the exchange of views had strengthened his belief that there was a need for effective cooperation with the Committee.

45. He pointed out that, as indicated in paragraph 28 of document A/49/677, he had taken as the conceptual basis for his action the definition of racial discrimination contained in article 1 of the International Convention on the Elimination of All Forms of Racial Discrimination. There could thus be no doubt about the fact that he and the Committee shared a common point of departure.

46. Welcoming the comments by Mr. Banton, he recalled that he himself had sent a questionnaire to States, as well as intergovernmental organizations, specialized agencies, such as the ILO and UNESCO, and non-governmental organizations, including those which cooperated with the United Nations Centre for Human Rights. Although only a few States had replied to the questionnaire, they included Swaziland, which had been singled out for its failure to comply with its reporting obligations under the Convention.

47. In many cases, States were economical with the truth in claiming that there was no discrimination, under the terms of article 1 of the Convention, in their territory. His own experience as Legal Adviser at UNESCO, which was empowered to hear individual complaints of violations of rights in the field of education, had taught him that realities often differed from what States claimed.

48. He pointed out that, although his concern with manifestations of racism, racial discrimination, xenophobia and related intolerance and acts of violence resulting therefrom in developed countries was a natural consequence of the mandate established by Commission on Human Rights resolution 1993/20, he had, from the outset, done his best to indicate that such manifestations were by no means specific to those countries. Only a few weeks previously, he had had occasion to draw the attention of the Commission on Human Rights to particularly serious events that came within his mandate in two African countries. He considered that, in terms of concern and attention, the world was his field of action.

49. After describing his mission to the United States of America, during which he had obtained valuable information and a large amount of documentation and data that would take a long time to process, given the limited resources at his disposal, he confirmed that he planned to visit Germany, Brazil, France and the United Kingdom in 1995. It was unlikely that funds or time would permit him to visit other countries, especially as his report must be prepared by October. He nevertheless hoped to visit all continents in the next three years. Certainly, what little that could be done must be done well.

50. Coordination with the Committee might take two forms. In the first place, he and the Committee might consider forms of contemporary racism and xenophobia as reflected in the treatment of migrant workers, Arabs and persons of Muslim faith, and blacks. Anti-Semitism could also be regarded as a xenophobic phenomenon. Secondly, his mission to the United States had alerted him to the fact that women could be doubly discriminated against, both on the grounds of their sex and for the reasons that led to discrimination against men as well. In proposing coordinated research and analysis in those areas, he was aware that there must be no duplication between his own activities and those of other experts and representatives of the Secretary-General with more precise, but related mandates, especially in respect of specific countries.

51. Coordination was also needed within the secretariat. It was important that representatives of the secretariat should take note of any suggestions made and that notices of meetings should be given in good time so that information and documents could be exchanged. He would make sure that he would be available to continue his discussions with the Committee.

52. Both he and the Committee were concerned with maintaining a dialogue with States for the purpose of inducing them to take the necessary measures to remedy situations involving racial discrimination. Some Governments admitted that they had problems. In their reports, he and the Committee stressed the efforts made by Governments and regional bodies to combat racial discrimination in the media and in schools. At a recent meeting in Lomé attended by representatives of the International Commission of Jurists and the African Commission on Human Rights, African States had been urged to ratify the Convention.

53. The problem of racial discrimination went back to the dawn of history and was constantly re-emerging. Groups which had previously had no difficulties suddenly found that they had them. The victims were usually national minorities. The only really effective way to combat the problem was through education, through teaching people to be tolerant, although that approach might take several generations to produce results. He hoped that he and the Committee would continue to work together in the struggle against racial discrimination.

54. The CHAIRMAN said that the first exchange of views with the Special Rapporteur had been very fruitful and had clarified the need for cooperation between him and the Committee and had highlighted certain problems that had to be solved. The Committee thanked the Special Rapporteur for having come to the meeting and looked forward to having another meeting with him at its next session.

ORGANIZATIONAL AND OTHER MATTERS (continued)

55. Mr. ABOUL-NASR recalled that, at preceding sessions, the members of the Committee had received the summary records very late. At the current session, however, many very well prepared summary records had been received in good time. The Committee, whose members depended on the summary records when trying to keep track of what had happened at previous meetings, should therefore express its gratitude to the hard-working members of the secretariat concerned.

56. The CHAIRMAN thanked Mr. Aboul-Nasr for his very pertinent remark and expressed the Committee's gratitude to the secretariat for providing the summary records.

The public meeting rose at 5.30 p.m.